IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE FIFTEENTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE R.SUBHASH REDDY

WRIT PETITION NO : 29796 of 1995

Between:

K. Janardhan Redy S/o Late Ram Reddy
R/o Kaligote village, Jatranpalli Mandal, Nizamabad District.

..... PETITIONER

AND

1 The District Collector, Nizamabad.
2 The Executive Engineer (I.B), Nizamabad.
3 The Superintending Engineer (Irrigation),
Nizamabad Circle, Nizamabad.
4 The Chief Engineer (Minor Irrigation)
Somajiguda, Hyderabad.
5 The Revenue Divisional Officer, Nizamabad.
6 The Mandal Revenue Officer,
Sirkonda Mandal, Nizamabad District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue any appropriate Writ, order or direction preferably a Writ in the nature of Writ of Mandamus declaring the action of the respondents in not paying compensation to the petitioner in respect of the land admeasuring Ac.9.9 guntas situated in S.No.323 and 350 in Talla Ramadugu village, Sirkonda mandal, Nizamabad district belonging to the petitioner as illegal, arbitrary, violative of Articles 14 and 300-A of the Constitution of India and consequently direct the respondents to pay compensation under the provisions of the Land Acquisition Act in addition to the interest @ 21% p.a. from the date on which the amounts lawfully fell due till the date of realization to the petitioner in respect of the lands that have been acquired, situate in S.No.323 and 350 in Talla Ramudugu village, Sirkonda Mandal, Nizamabad District.

Counsel for the Petitioner: MR. P.VENUGOPAL

Counsel for Respondents: GOVERNMENT PLEADER FOR LAND ACQUISITION

The Court made the following:

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ORDER:

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This writ petition is filed seeking a Writ of Mandamus, to declare the action of the respondents in not paying compensation to the petitioner for the land bearing Survey Nos.323 and 350 admeasuring Ac.9-09 guntas in Talla Ramadugu Village, Sirkonda Mandal, Nizamabad District, as illegal and arbitrary, and to direct the respondents to pay compensation to the petitioner for the above said land acquired, under the provisions of the Land Acquisition Act, 1894 (for short, 'the LA Act').

As stated in the affidavit filed in support of the writ petition, it is the case of the petitioner that he is owner and possessor of land bearing Survey Nos.323 and 350 admeasuring Ac.9-09 guntas situated at Talla Ramadugu Village, Sirkonda Mandal, Nizamabad District. It is his case that the said lands were taken possession for utility of public purpose for construction of a tank called "Mallanna Cheruvu". It is his case that though the said land was taken possession of and used for public purpose, no proceedings have been initiated to pay compensation under the LA Act. As such, he has questioned the same on the ground that he should not be deprived of his property otherwise than due process of law.

A counter affidavit is filed on behalf of respondents. As stated in the counter affidavit, it is the case of the respondents that though initially there were proposals to acquire the land in question, but subsequently land acquisition proposals were withdrawn pursuant to the letter of the District Collector, Nizamabad District, in Lr.No.C6/2818/72, dated 30-10-1972. It is stated, the letter was addressed referring to sanction given by the petitioner herein to forego compensation for the lands, which were acquired for the purpose of construction of tank. In the counter affidavit, it is also stated, initially acquisition proceedings were initiated in the year 1975 for the lands, which were requisitioned and subsequently with regard to lands where there was a proposal for withdrawing the claim of compensation, revised proposals were issued in the year 1977. Further, it is stated that the petitioner has not taken any steps and approached this Court nearly after 25 years and the relief sought for is opposed on the ground that there is abnormal delay and laches on the part of the

writ petitioner.

It is submitted by Sri P.Venu Gopal, learned Counsel for the petitioner, that the respondents have not placed the letter dated 30-10-1972 wherein it was indicated that the petitioner had withdrawn his claim for compensation. It is further submitted, the petitioner had been making series of representations to the respondents - authorities, as such there was no delay and laches on his part and as much as the petitioner was deprived of his property without due process of law, he is entitled for compensation as per the provisions of the LA Act. On the other hand, it is submitted by the learned Government Pleader appearing for respondents that the petitioner having consented to part with the land for the public purpose, namely, for construction of tank, it is not open to seek the present relief in a petition filed under Article 226 of the Constitution of India belatedly at this point of time.

With reference to the above submissions, it is to be seen in this case; lands were taken possession of in the year 1975. Though it is stated that representations are being made, but this writ petition is filed in the year 1995, nearly 19 years after the possession was taken. Though the possession was taken undisputedly during the years 1975 and 1977, the petitioner did not raise his little finger at any point of time earlier. There is no valid explanation for the abnormal and unexplained delay of nearly 19 years. It is very well settled that to seek relief by filing a petition under Article 226 of the Constitution of India, one has to approach in the reasonable time from the period of cause of action. In this case, I am not satisfied with the abnormal delay and laches on the part of the petitioner to consider his claim at this stage. Further, as projected by the respondents, it is their case that the petitioner agreed to forego compensation and basing on his consent, the District Collector has addressed a letter dated 30-10-1972. The silence on the part of the petitioner for number of years probablises the plea of the respondents that he has consented for acquisition without claiming compensation. For the foregoing reasons, the petitioner is not entitled for the relief claimed in the present writ petition at this point of time.

The writ petition is devoid of merits and accordingly dismissed. No order as to costs.

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R.SUBHASH REDDY, J

Dated: 15th December, 2004.

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ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 The District Collector, Nizamabad.
2 The Executive Engineer (I.B), Nizamabad.
3 The Superintending Engineer (Irrigation),
Nizamabad Circle, Nizamabad.
4 The Chief Engineer (Minor Irrigation), Somajiguda, Hyderabad.
5 The Revenue Divisional Officer, Nizamabad.
6 The Mandal Revenue Officer,
Sirkonda Mandal, Nizamabad District.

7 Two CCs to the Government Pleader for Land Acquisition,

High Court Buildings, Hyderabad (O.U.T).

8 Two CD copies.